

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

JANUARY 4, 2005

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Herriman called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Glass, Commissioner Marks Felsher and Commissioner Davis. Also in attendance were Industry Liaison Okey and Superintendent Huskey.

Michael Curts of ILBA, John Barnett of DISCUS, Jerimi Ullom, Jim Calvert of Olinger, Jim Purucker of WSWI, Marc Carmichael, Debbie Scott of IABR, Carol Tietz of Bose McKinney and Evans and Grant Monahan were present as observers.

#### ANNOUNCEMENTS

INTRODUCTION OF NEW CHAIRMAN – Chairman Herriman stated the new chairman for the Alcohol and Tobacco Commission is former Mayor of Lafayette, Dave Heath. He also was a two-term Sheriff of Tippecanoe County. The Chairman said that when he worked with Mr. Heath in the past he always found him to be very fair and reasonable and that he would do a great job with the Commission.

Mayor Heath stated that he is looking forward to getting started on January 10<sup>th</sup>.

FAREWELL TO VICE CHAIR GLASS AND COMMISSION MARKS FELSHER – Chairman Herriman announced that this would be the last meeting for himself, Vice Chairperson Glass and Commissioner Marks Felsher. He thanked the commissioners for their years of service to the State of Indiana and to the Commission. He also thanked every employee of the ATC for all of the hard work that they do.

Commissioner Marks Felsher said that this has been a very enjoyable 11 years working with everyone. She also stated that this was a great opportunity and she was happy to have had the chance to have it.

Vice Chairperson Glass said that it has been a pleasure working with everyone in the industry and the Commission and that she knows everything will continue to go well.

Chairman Herriman also wanted to thank Mark Webb for his service to the Commission as Executive Secretary/Hearing Judge. The Chairman stated that Mark will be joining Joe Quill with his practice.

## **DISPOSITION OF MINUTES**

Commissioner Davis moved to approve the minutes that were submitted for the December 21, 2004 meeting. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

## **HEARING JUDGE'S RECOMMENDATIONS**

PARTIES AGREED DISPOSITION (PAD) FORMS – Chairman Herriman moved to approve the PAD forms that were submitted for the January 4, 2005 meeting. Motion seconded by Commissioner Marks Felsher and it was unanimously approved.

DL46-20235 CASEY'S ENTERPRISES, LLC – Chairman Herriman stated this was a recommended denial of a new permit by the LaPorte County Local Board and an upholding of that denial by the Commission. The applicant filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairperson Glass moved to uphold the Hearing Judge's findings to overturn the local board and approve the new permit. Motion seconded by Commissioner Marks Felsher and Chairman Herriman also voted to uphold the Hearing Judge. Commissioner Davis voted against the motion.

## **CONSIDERATION OF APPLICATIONS**

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Davis and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Marks Felsher and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Davis and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Marks Felsher and it was unanimously approved.

One hundred fifty-nine (159) renewals approved, twenty-eight (28) new and/or transfer permits approved, five (5) permits conditionally approved, two (2) permits approved for catering, two (2) permits approved for first year escrow, four (4) permits approved for second year escrow, two (2) permits approved for third year escrow and one (1) permit approved for fourth year escrow.

### **RENEWAL LETTERS AND WAIVER OF FEES**

Commissioner Marks Felsher moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

### **APPLICATIONS FOR DISCUSSION**

DL84-02983 TERRY NOLAN – Vice Chairperson Glass noted this permit was made inactive on 3-26-04.

Vice Chairperson Glass moved to reactivate this permit. Motion seconded by Commissioner Davis and it was unanimously approved.

DL49-21244 MAC'S CONVENIENCE STORES, LLC – Vice Chairperson Glass noted this is a new type 115 application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation and deny the new application. Motion seconded by Commissioner Marks Felsher and it was unanimously approved.

DL47-21438 PAMIDA, INC. – Vice Chairperson Glass noted this is a new type 115 application with the local board voting two (2) to one (1) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Davis and it was unanimously approved.

RR43-02891 NIGHT SHIFT OF NORTH WEBSTER, INC. - Vice Chairperson Glass noted this is a type 210 renewal application with the local board voting two (2) to two (2). She stated that she listened to the tapes of the local board hearing, along with the other commissioners. The issue is the owner has had a problem with the law in Texas that has not been worked out. But, he has filed applications to transfer this permit to his daughter.

Vice Chairperson Glass moved to allow this renewal to take place, based on the approval of the transfer and that he have no activity or no involvement in the permit, unless he would be cleared from what is going on in Texas with the law. Motion seconded by Commissioner Davis and it was unanimously approved.

### **INACTIVE FILES**

Commissioner Marks Felsher moved to make two (2) permits inactive. Both permits are not subject to the auction. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

### **APPEALS FROM LOCAL BOARD RECOMMENDATIONS**

No Appeals From Local Board Recommendations

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

ARTHRITIS FOUNDATION 8 BALL CLASSIC POOL TOURNAMENT – Arthritis Foundation would like to serve donated champagne at their kick-off buffet for their 8 Ball Classic Pool Tournament.

WNIN GALA – WNIN would like to serve donated alcoholic beverages at their Gala, to be held at the Historic Carpenter Home.

Commissioner Davis moved to approve these requests. Motion seconded by Commissioner Marks Felsher and it was unanimously approved.

### **POLICY DETERMINATIONS**

No Policy Determinations

### **UNDER ADVISEMENT**

Nothing Under Adviseement

### **ANNOUNCEMENTS**

No Announcements

## **ADJOURNMENT**

Vice Chairperson Glass moved to adjourn the meeting. Motion seconded by Commissioner Marks Felsher and it was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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DAVE HEATH, CHAIRMAN

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MELANIE BRIZZI, VICE CHAIRPERSON

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DALE STURTZ, COMMISSIONER